

**§ 7A-452. Source of counsel; fees; appellate records.**

(a) Upon the court's determination that a person is indigent and entitled to counsel under this Article, counsel shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services. In noncapital cases, the court shall assign counsel pursuant to rules adopted by the Office of Indigent Defense Services. In capital cases, the Office of Indigent Defense Services or designee of the Office of Indigent Defense Services shall assign counsel; at least one member of each capital defense team, where practicable, shall be a member of the bar in that division. In the courts of those counties which have a public defender, however, the public defender may tentatively assign himself or an assistant public defender to represent an indigent person, subject to subsequent determination of entitlement to counsel by the court and approval by the court in noncapital cases and by the Office of Indigent Defense Services in capital cases.

(b) Fees of assigned counsel and salaries and other operating expenses of the offices of the public defenders shall be borne by the State.

(c) (1) The clerk of superior court is authorized to make a determination of indigency and entitlement to counsel, as authorized by this Article. The word "court," as it is used in this Article and in any rules pursuant to this Article, includes the clerk of superior court.

(2) A judge of superior or district court having authority to determine entitlement to counsel in a particular case may give directions to the clerk with regard to the determination of entitlement to counsel in that case; may, if he finds it appropriate, change or modify the determination made by the clerk; and may set aside a finding of waiver of counsel made by the clerk.

(d) Unless a public defender or assistant public defender is appointed to serve, standby counsel appointed under G.S. 15A-1243 shall receive reasonable compensation to be paid by the State.

(e) In cases in which an indigent person has entered notice of appeal and appellate counsel has been appointed by the Office of Indigent Defense Services, the clerk of superior court shall make a copy of the complete trial division file in the case, make a copy of documentary exhibits upon request, and furnish those files and any requested documentary exhibits to the appointed attorney. (1969, c. 1013, s. 1; 1971, c. 377, s. 32; 1973, c. 1286, s. 8; 1977, c. 711, s. 9; 1987 (Reg. Sess., 1988), c. 1037, s. 29; 2000-144, s. 7; 2005-148, s. 1.)